REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the following remarks.

Rejection under 35 U.S.C. § 112, first paragraph

In the Office Action, beginning at page 3, Claims 1-4 were rejected under 35 U.S.C. § 112, first paragraph, as reciting subject matters that allegedly cannot be employed due to the lack of availability of the best microorganism strain(s) as indicated in the specification. Applicant respectfully requests reconsideration of this rejection.

It appears that the Office Action is questioning the availability of the best microorganism strain. However, as the passages cited by the Examiner on page 3 of the Office Action point out, each of these strains have been deposited under the provisions of the Budapest Treaty and are, therefore, readily available. The proper averrments are set forth in response to the "deposit" rejection *infra.*

For at least the foregoing reasons, Applicant respectfully submits that Claims 1-4 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

In the Office Action, beginning at page 4, Claims 1-4 were rejected under 35 U.S.C. § 112, first paragraph, as reciting subject matters that allegedly fail to comply with the enablement requirement. Applicant respectfully requests reconsideration of this rejection.

In accordance with 37 C.F.R. §1.801-1.809, the undersigned hereby declares that the deposit has been made under te terms of the Budapest Treaty at an acceptable depository and that the following criteria have been met:

a) during the pendency of the application, access to the deposit will be afforded to one determined by the Commissioner to be entitled thereto;

b) all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of the patent;

c) the deposit will be maintained for a term of at least thirty (30) years and at least five (5) years after the most recent request for the furnishing of a sample of the deposited material;

d) a viability statement in accordance with the provisions of 37 C.F.R. 1.807; and

e) the deposit will be replaced should it become necessary due to inviability, contamination or loss of capability to function in the manner described in the specification.

For at least the foregoing reasons, Applicant respectfully submits that Claims 1-4 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

Rejection under 35 U.S.C. § 102(a) or, in the alternative, under 35 U.S.C. § 103(a)

In the Office Action, beginning at page 6, Claims 1-3 were rejected under 35 U.S.C. § 102(a) or, in the alternative, under 35 U.S.C. § 103(a) as reciting subject matters that allegedly are anticipated by, or obvious over, Gunji et al. Applicant respectfully requests reconsideration of this rejection.

Applicant notes that the strain disclosed in Gunji et al. is not explicitly or implicitly auxotrophic for L-methionine, and therefore, do not teach, either explicitly or implicitly, the claim limitation "which requires L-methionine for its growth". That is, *Methylophilus methyloptrophus* AS1 strain is not auxotrophic for L-methionine, and the presence of the lysE24 gene which was used to transform the AS1 strain is irrelevant to L-methionine-auxotrophy. Therefore, the present invention is neither anticipated nor

obvious over Gunji et al.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 1-3 are not anticipated by Gunji et al., are therefore not unpatentable under 35 U.S.C. § 102(a) or, in the alternative, under 35 U.S.C. § 103(a), and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 102 or under 35 U.S.C. § 103(a).

Rejection under 35 U.S.C. § 102(e)

In the Office Action, beginning at page 7, Claims 1-3 were rejected under 35 U.S.C. § 102(e) as reciting subject matters that allegedly are anticipated by Hanson et al. Applicant respectfully requests reconsideration of this rejection.

Applicant respectfully notes that the disclosed strains are not auxotrophic for L-methnionine, and therefore, do not teach, either explicitly or implicitly, the claim limitation "which requires L-methionine for its growth". As shown in the table from column 13 to column 14 of Hanson et al., the mutant strains of *Bacillus* bacterium are auxotrophic for homoserine, leucine, tyrosine, alanine, tryptophan, or phenylalanine, but no L-methionine auxotrophic strains are disclosed. It is also noted that *Methylophilus methylotrophus* is used only as a control in the dihydropicolinic acid test in column 11, lines 17-26.

Although the Examiner has stated that the property of L-methionine auxotrophy is inherent in the specific strain, the property is not inherent, as the MR102 strain, MR103 strain and MR701 strain were obtained by mutating the AS1 strain so to impart the methionine auxotrophy in the Examples of the present specification.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 1-3 are not anticipated by Hanson et al., are therefore not unpatentable under 35 U.S.C. § 102(e), and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 102(e).

Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Lilling believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, he is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

By: _____

Shelly Guest Cermak
Registration No. 39,571

U.S. P.T.O. Customer No. 38108
Cermak & Kenealy, LLP
515 E. Braddock Road, Suite B
Alexandria, VA 22314
703.778.6608

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